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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,235	10/27/2003	N. Sandor Racz	2102-4389US	3743
24247	7590	06/26/2007		
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER THANH, LOAN H	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 06/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,235

Applicant(s)

RACZ ET AL.

Examiner

LoAn H. Thanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 7, 10, 11, 13, 19, 22 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9, 12, 14-18, 20, 21, 23, 25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

This application contains claims 7,10-11, 13, 19, 22, 26 drawn to an invention nonelected without traverse in the reply filed on 08/14/06. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Response to Amendment

The objection to the drawings have been withdrawn in view of the formal drawings filed 04/07/04.

The specification objection has been withdrawn in view of the amendment filed 02/01/07.

The claim rejection under 35 USC §112, 2nd ¶ has been withdrawn in view of the amendment filed 02/01/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-4,6, 8-9,12, 14-18,20,23,25,27 are rejected under 35 U.S.C. 102(e) as being as being anticipated by Zohmann (US 6,558,353).

Zohmann discloses a spinal catheter assembly having a needle 50 and a spinal catheter 70 wherein the needle 50 has a non-cutting piercing pencil point and an opening 53 for providing feedback. The spinal catheter is slidably mounted on the needle and shorter than the needle in order for exposing the pencil tip of the needle. The first and second attachment is considered to be the structures which provides the friction fit. The force absorbing structure is considered the nose 65 of the catheter. Zohmann further discloses a central stylet 30 mounted in the needle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zohmann (6,558,353) in view of Kreuzer et al. (US 5,116,323).

Zohmann discloses the invention as substantially claimed. See above. However, Zohmann is silent to the connections being a luer lock. Kreuzer et al. discloses a catheter assembly having luer lock connections between the catheter and needle structures. It would have been obvious to one of ordinary skill in the connector art to

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modify the friction fit connection of Zohmann with a luer lock connector as taught by Kreuzer et al. in order to provide an improved and more secured connection between the catheter and the needle.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zohmann (6,558,353).

Zohmann discloses the claimed invention except for the material of the of the needle being a medical grade plastic material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the material of the needle to suit the area to which it would be applied to , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended uses as a matter of obvious engineering choice lacking any criticality. In re Leshin , 125 USPQ 416. Further, applicant's specification discloses that conventional catheter material may be use and that the "flexible" needle of applicant is "fairly stiff and has a sufficiently high tensile strength to maintain structural integrity". Thus , it appears that the "flexible" needle in the broadest interpretation is a relative term.

Response to Arguments

Applicant's arguments filed 02/01/07 have been fully considered but they are not persuasive. The examiner is not convinced by applicant's arguments. The Examiner's position is that any elongate tube will inherently have some degree of flexibility. Thus, as an example, a paperclip is made of metal and relative rigid since it maintains its

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structure. However it is relatively flexible since it can be bent to accommodate more paper or it can be bent to a straight dimension.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (571) 272-4966. The examiner can normally be reached on Mon-Fri (first Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571) 272-4977. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LoAn H. Thanh/

LoAn H. Thanh
Primary Examiner
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